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AMERICA, N.A., for itself and as successor by  
merger to BAC Home Loans Servicing, LP  
(erroneously sued as "Bank of America  
Corporation"); COUNTRYWIDE HOME  
LOANS, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

DEBORAH JOAN CRABTREE,  
aka Deborah J. Crabtree,

Plaintiff,

vs.

BANK OF AMERICA  
CORPORATION; BAC HOME  
LOANS SERVICING, LP; BANK OF  
AMERICA, N.A.; COUNTRYWIDE  
HOME LOANS, INC.; and JOHN  
DOES 1-50, JANE DOES 1-50, DOE  
PARTNERSHIPS 1-50, DOE  
CORPORATIONS 1-50, DOE TRUSTS  
1-50, DOE ENTITIES 1-50 and DOE  
GOVERNMENTAL UNITS 1-50,

Defendants.

CIVIL NO. CV11-00540 KSC

**ANSWER AND AFFIRMATIVE  
DEFENSES TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT  
OF DEFENDANTS BANK OF  
AMERICA, N.A. AND  
COUNTRYWIDE HOME LOANS,  
INC.; CERTIFICATE OF  
SERVICE**

**ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT OF DEFENDANTS BANK OF  
AMERICA, N.A. AND COUNTRYWIDE HOME LOANS, INC.**

Defendants Bank of America, N.A., for itself and as successor by merger to BAC Home Loans Servicing, LP (“BACHLS”) (erroneously sued as “Bank of America Corporation”) (“BANA”) and Countrywide Home Loans, Inc. (“Countrywide”) (collectively “Defendants” or “Answering Defendants”) hereby answer the First Amended Complaint (“FAC”) filed by Plaintiff Deborah J. Crabtree (“Plaintiff”). Unless expressly admitted herein, Defendants lack sufficient information to admit or deny the allegations of the FAC, and on that basis, deny the allegations.

**JURISDICTION AND VENUE**

1. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied pursuant to the filings effectuating Removal.

2. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied pursuant to the filings effectuating Removal.

3. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied pursuant to the filings effectuating Removal.

## **PARTIES**

4. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

5. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny them.

6. Denied as stated. It is admitted only that BACHLS did business in Hawaii until July 1, 2011, when it merged into BANA, and that BACHLS, acting as the servicer of the loan, accepted certain mortgage payments from Plaintiff. Defendants admit that it received certain mortgage payments from Plaintiff and her former husband. Defendants lack sufficient information to admit or deny the remaining allegations contained in this paragraph, and on that basis, deny the allegations.

7. Denied as stated. It is admitted only that BACHLS merged into BANA on July 1, 2011. BANA has conducted business in Hawaii during the referenced time periods, and accepted certain mortgage payments from Plaintiff. Defendants admit that it received certain mortgage payments from Plaintiff and her former husband. Defendants lack sufficient information to admit or deny the remaining allegations contained in this paragraph, and on that basis, deny the allegations.

8. Denied as stated. It is admitted only that BANA conducted business

in Hawaii during the referenced time period. The remaining allegations of this Paragraph are denied.

9. It is admitted that Countrywide conducted business in Hawaii during the referenced time period and originated the first and second mortgages on the subject property.

10. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

11. This Paragraph is directed at parties other than Answering Defendants. As such, no response from Answering Defendants is required.

12. This Paragraph does not contain an allegation of fact requiring a response.

13. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

### **STATEMENT OF FACTS**

14. Denied as stated. The referenced loan documents speak for themselves.

15. Denied as stated. The referenced document speaks for itself.

16. Denied as stated. The referenced document speaks for itself.

17. Denied as stated. The referenced documents speak for themselves. Defendants lack sufficient information to admit or deny the remaining allegations contained in this paragraph, and on that basis, deny the allegations.

18. Denied as stated. The referenced document speaks for itself.

19. Admitted.

20. Denied as stated. The referenced billing and payment documents speak for themselves. Defendants admit that Plaintiff and Robert made payments toward the 1<sup>st</sup> Mortgage.

21. Denied as stated. The referenced documents speak for themselves. Defendants lack sufficient information to admit or deny the remaining allegations contained in this paragraph, and on that basis, deny the allegations.

22. Denied as stated. The referenced document speaks for itself.

23. Denied as stated. The referenced document speaks for itself.

24. Admitted.

25. Denied as stated. The referenced documents speak for themselves.

26. Denied as stated. The referenced billing and payment documents speak for themselves. Defendants admit that Plaintiff and Robert made payments toward the 2<sup>nd</sup> Mortgage.

27. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

28. The allegations in this paragraph assert a statement to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

29. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

30. Denied as stated. The referenced documents speak for themselves.

31. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

32. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

33. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

34. The allegations contained in this Paragraph are denied. Defendants deny any wrongdoing.

35. The allegations contained in this Paragraph are denied. Defendants deny any wrongdoing.

36. The allegations contained in this Paragraph are denied. Defendants

deny any wrongdoing.

37. The allegations in this paragraph assert a statement to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

38. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

39. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

40. The allegations in this paragraph assert a statement to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

41. Denied as stated. The referenced documents speak for themselves.

42. The allegations in this paragraph assert a statement to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations.

43. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

44. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

45. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

46. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Also, the referenced document speaks for itself.

47. The allegations contained in this Paragraph are denied.

48. The allegations contained in this Paragraph are denied. Defendants deny any wrongdoing.

49. Denied as stated. The referenced documents speak for themselves.

50. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

51. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

52. Defendants lack sufficient information to admit or deny the



allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

53. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

54. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

55. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

56. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

57. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

58. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

59. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

60. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

61. Defendants lack sufficient information to admit or deny the allegations contained in the first sentence of this paragraph, and on that basis, deny the allegations. The remaining allegations in this paragraph assert statements to which no response is required. To the extent a response is required, Defendants lack sufficient information to admit or deny the allegations contained therein, and on that basis, deny the allegations. Defendants deny any wrongdoing.

62. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Also, the referenced notice speaks for itself.

63. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

64. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

65. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

66. Defendants lack sufficient information to admit or deny the

allegations contained this Paragraph, and on that basis, deny the allegations.

67. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. The referenced notice speaks for itself. Defendants deny any wrongdoing.

68. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

69. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

70. The allegations contained in this Paragraph are denied.

71. The allegations contained in this Paragraph are denied.

72. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

73. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

74. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. The

referenced email speaks for itself.

75. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. The referenced letters speak for themselves.

76. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

77. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

78. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

79. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

80. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

81. Denied as stated. The referenced notice speaks for itself.

82. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

83. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

84. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

85. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Further, the referenced Qualified Written Request speaks for itself.

86. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced letter speaks for itself.

87. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced letter speaks for itself.

88. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Further, the referenced Qualified Written Request speaks for itself.

89. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

Defendants deny any wrongdoing. The referenced forms speak for themselves.

90. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced forms speak for themselves.

91. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced forms speak for themselves.

92. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced forms speak for themselves.

93. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

94. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing. The referenced forms speak for themselves.

95. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. The referenced notice speaks for itself.

96. Defendants lack sufficient information to admit or deny the

allegations contained this Paragraph, and on that basis, deny the allegations. The referenced letter speaks for itself.

97. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. The referenced letter speaks for itself.

98. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations. Defendants deny any wrongdoing.

99. The allegations contained in this Paragraph are denied.

100. Denied as stated. The referenced documents speak for themselves.

101. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

102. The allegations contained in this Paragraph are denied.

103. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

104. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

105. The allegations contained in this Paragraph are denied.

106. Defendants lack sufficient information to admit or deny the allegations contained this Paragraph, and on that basis, deny the allegations.

**RESPONSE TO COUNT I**  
**State Collection Practices, aw. Rev. Stat. §480 et seq. ("SCP")**

107. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

108. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

109. The allegations contained in this Paragraph are denied.

110. The allegations contained in this Paragraph are denied.

111. The allegations contained in this Paragraph are denied.

112. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

113. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

114. The allegations contained in this Paragraph are denied.

115. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

116. This Paragraph sets forth legal conclusions, to which no response is



required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT II**  
**Unfair and Deceptive Trade Business Practices (“UDTBP”)**

117. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

118. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

119. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

120. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

121. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

122. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

123. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

124. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

125. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

126. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

127. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

128. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

129. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are

denied.

130. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

131. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

132. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

133. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

134. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

135. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

136. This Paragraph sets forth legal conclusions, to which no response is

required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT III**  
**Truth in Lending Act ("TILA") and/or**  
**Real Estate Settlement Procedure Act ("RESPA")**

137. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

138. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

139. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

140. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

141. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT IV**  
**Violations of Hawaii Bureau of Conveyance Regulations**

142. Defendants repeat and re-allege each of the answers in the preceding

Paragraphs as though the same were set forth in full herein.

143. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

144. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

145. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

146. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

147. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

148. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT V**  
**Bad Faith**

149. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

150. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

151. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

152. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

153. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT VI**  
**Unjust Enrichment**

154. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

155. This Paragraph sets forth legal conclusions, to which no response is

required. To the extent a response is deemed necessary, said allegations are denied.

156. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

157. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

158. It is denied that Plaintiff is entitled to any damages whatsoever.

**RESPONSE TO COUNT VII**  
**Breach of Fiduciary Duty**

159. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

160. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

161. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

162. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are

denied.

**RESPONSE TO COUNT VIII**  
**Misrepresentation**

163. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

164. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

165. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

166. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

167. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

168. It is denied that Plaintiff is entitled to any damages whatsoever, including punitive damages.



**RESPONSE TO COUNT IX**  
**Defamation**

169. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

170. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

171. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

172. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT X**  
**Negligent Infliction of Emotional Distress**

173. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

174. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

175. This Paragraph sets forth legal conclusions, to which no response is

required. To the extent a response is deemed necessary, said allegations are denied.

176. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

177. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XI**  
**Intentional Infliction of Emotional Distress**

178. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

179. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

180. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

181. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

182. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XII**  
**Tort of Outrage**

183. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

184. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

185. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XIII**  
**Unconscionability**

186. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

187. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

188. This Paragraph sets forth legal conclusions, to which no response is

required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XIV**  
**Breach of Contract**

189. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

190. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

191. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

192. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

193. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

194. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

195. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XV  
Fair Credit Reporting Act ("FCRA")**

196. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

197. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

198. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

199. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

200. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

**RESPONSE TO COUNT XVI**  
**Punitive Damages**

201. Defendants repeat and re-allege each of the answers in the preceding Paragraphs as though the same were set forth in full herein.

202. This Paragraph sets forth legal conclusions, to which no response is required. To the extent a response is deemed necessary, said allegations are denied.

WHEREFORE, Defendants respectfully request judgment in their favor and against Plaintiff, along with fees, costs, and other amounts deemed appropriate by this Honorable Court.

**AFFIRMATIVE DEFENSES**

As separate and affirmative defenses, Defendants allege as follows:

**FIRST AFFIRMATIVE DEFENSE**  
**(Failure to State a Claim)**

1. Plaintiff's FAC fails to state facts sufficient to constitute any cause of action against Defendants.

**SECOND AFFIRMATIVE DEFENSE**  
**(Statute of Limitations)**

2. Plaintiff's claims are barred by all applicable statute of limitations.

**THIRD AFFIRMATIVE DEFENSE**  
**(Waiver)**

3. By her actions, Plaintiff has waived any and all claims, rights and demands made by her in the FAC.

FOURTH AFFIRMATIVE DEFENSE  
(Laches)

4. Plaintiff's claims are barred by the doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE  
(Estoppel)

5. Plaintiff is estopped from asserting the claims, rights and demands made by her in the FAC.

SIXTH AFFIRMATIVE DEFENSE  
(Justification and Privilege)

6. Defendants were justified and privileged in taking the actions alleged in the FAC.

SEVENTH AFFIRMATIVE DEFENSE  
(Mistake)

7. Any alleged acts or omissions of Defendants that give rise to Plaintiff's claims are the result of innocent mistake.

EIGHTH AFFIRMATIVE DEFENSE  
(Consent/Acquiescence)

8. Plaintiff acquiesced in and/or consented to Defendants' acts and omissions alleged in the FAC.

NINTH AFFIRMATIVE DEFENSE  
(Ratification)

9. By her actions, Plaintiff ratified the actions of others upon which she bases her claims. Thus, to the extent Plaintiff suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and

contributed to by Plaintiff's own ratification of the conduct giving rise to her alleged damages and/or Plaintiff's own conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct, and not by Defendants.

TENTH AFFIRMATIVE DEFENSE  
(Fault of Others)

10. If Plaintiff suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by the breach, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct of third parties, and not by Defendants.

ELEVENTH AFFIRMATIVE DEFENSE  
(Unclean Hands)

11. By virtue of her unclean hands, Plaintiff is barred from recovering against Defendants.

TWELFTH AFFIRMATIVE DEFENSE  
(Contributory Fault)

12. If Plaintiff suffered or sustained any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by her own breach, conduct, acts, omissions, activities, carelessness, recklessness, negligence, and/or intentional misconduct, and not by Defendants.



THIRTEENTH AFFIRMATIVE DEFENSE  
(No Damages / Speculative Damages)

13. Plaintiff has suffered no actual damages, and any damages claimed by in the FAC are speculative and cannot be recovered from Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE  
(Failure to Mitigate)

14. Plaintiff has failed, refused and/or neglected to take reasonable steps to mitigate her alleged damages, if any, thus barring or diminishing any recovery by her.

FIFTEENTH AFFIRMATIVE DEFENSE  
(Indemnity)

15. If Plaintiff suffered or sustained any loss, injury, damage or detriment attributed to Defendants, Defendants are entitled to indemnity for any such liability from third parties.

SIXTEENTH AFFIRMATIVE DEFENSE  
(Parol Evidence Rule)

16. Plaintiff is barred by the Parol Evidence Rule from asserting the causes of action against Defendants in the FAC.

SEVENTEENTH AFFIRMATIVE DEFENSE  
(Several Liability)

17. The liability of Defendants, if any, is limited to several liability with respect to all non-economic damages.

EIGHTEENTH AFFIRMATIVE DEFENSE  
(Consistent with Law and Applicable Regulations)

18. The FAC and each claim set forth therein are barred because Defendants' conduct was consistent with all applicable laws and regulations.

NINETEENTH AFFIRMATIVE DEFENSE  
(Good Faith)

19. Plaintiff's claims are barred because Defendants' conduct was at all times undertaken in good faith.

TWENTIETH AFFIRMATIVE DEFENSE  
(Absence of Necessary / Indispensable Parties)

20. The FAC and each cause of action therein are barred to the extent that Plaintiff seeks adjudication of the claims of absent parties, relief based upon the claims of absent parties, and/or remedies or judgment in favor of absent parties over whom this Court has no jurisdiction.

TWENTY-FIRST AFFIRMATIVE DEFENSE  
(Unjust Enrichment)

21. The FAC and each cause of action therein are barred because recovery for Plaintiff would result in unjust enrichment.

DATED: Honolulu, Hawaii, September 9, 2011.

CADES SCHUTTE LLP

/s/ Patricia J. McHenry

PATRICIA J. MCHENRY

Attorneys for Defendants BANK OF AMERICA,  
N.A., for itself and as successor by merger to  
BAC Home Loans Servicing, LP (erroneously  
sued as "Bank of America Corporation");  
COUNTRYWIDE HOME LOANS, INC.